

Federal Acquisition Regulation

25.001

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AUTHORITY: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113).

SOURCE: 64 FR 72419, Dec. 27, 1999, unless otherwise noted.

25.000 Scope of part.

(a) This part provides policies and procedures for—

(1) Acquisition of foreign supplies, services, and construction materials; and

(2) Contracts performed outside the United States.

(b) It implements 41 U.S.C. chapter 83, Buy American; trade agreements; and other laws and regulations.

[73 FR 10957, Feb. 28, 2008, as amended at 79 FR 24208, Apr. 29, 2014]

25.001 General.

(a) 41 U.S.C. chapter 83, Buy American—

(1) Restricts the purchase of supplies, that are not domestic end products, for use within the United States. A foreign end product may be purchased if the contracting officer determines that the price of the lowest domestic offer is unreasonable or if another exception applies (see Subpart 25.1); and

(2) Requires, with some exceptions, the use of only domestic construction materials in contracts for construction in the United States (see Subpart 25.2).

(b) The restrictions in the Buy American statute are not applicable in acquisitions subject to certain trade agreements (see Subpart 25.4). In these acquisitions, end products and construction materials from certain countries receive nondiscriminatory treatment in evaluation with domestic offers. Generally, the dollar value of the acquisition determines which of the trade agreements applies. Exceptions to the applicability of the trade agreements are described in Subpart 25.4.

(c) The test to determine the country of origin for an end product under the Buy American statute (see the various country “end product” definitions in 25.003) is different from the test to determine the country of origin for an end product under the trade agreements, or the criteria for the representation on end products manufactured outside the United States (see 52.225-18).

(1) The Buy American statute uses a two-part test to define a “domestic end product” or “domestic construction material” (manufactured in the United States and a formula based on cost of domestic components). The component test has been waived for acquisition of commercially available off-the-shelf items.

(2) Under the trade agreements, the test to determine country of origin is “substantial transformation” (*i.e.*, transforming an article into a new and different article of commerce, with a name, character, or use distinct from the original article).

(3) For the representation at 52.225-18, the only criterion is whether the place of manufacture of an end product is in the United States or outside the